

AMENDED IN ASSEMBLY APRIL 25, 2005

AMENDED IN ASSEMBLY MARCH 30, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1147

Introduced by Assembly Member Leno

February 22, 2005

An act to add Division 26 (commencing with Section 81100) to the Food and Agricultural Code, *and to amend Section 6276.26 of the Government Code*, relating to industrial hemp.

LEGISLATIVE COUNSEL'S DIGEST

AB 1147, as amended, Leno. Industrial hemp: ~~license for commercial purposes~~ *growers and processors*.

(1) Existing law contained in the Food and Agricultural Code does not authorize the production or utilization of industrial hemp in this state. The Food and Agricultural Code provides that a violation of any of its provisions is, in general, a misdemeanor.

This bill would provide that any person desiring to grow industrial hemp, as defined, for commercial purposes ~~or shall comply with specified requirements, including a requirement to file a signed document relating to any contract to grow industrial hemp containing specified information; the document would be available for review by law enforcement but not by the public. The bill would also provide that any person desiring to operate as a primary processor of viable hemp seed into commercial, nonviable seed derivatives shall apply to the Department of Food and Agriculture for a license; the bill would require any licensee to meet and comply with specified conditions~~ *requirements*. The bill would provide for the assessment of a fee on ~~license applicants and for an applicant for a primary processor~~

license. The bill would also provide for research by the University of California on industrial hemp, as specified. By creating new crimes, this bill would impose a state-mandated local program upon local governments.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Division 26 (commencing with Section 81100)
2 is added to the Food and Agricultural Code, to read:

3
4 DIVISION 26. INDUSTRIAL HEMP
5

6 81100. Unless otherwise provided or the context otherwise
7 requires, the definitions in this section shall govern the
8 construction of this division:

9 (a) "Secretary" means the Secretary of Food and Agriculture,
10 or the secretary's designee.

11 (b) "Department" means the Department of Food and
12 Agriculture.

13 (c) "Industrial hemp" is generally an oilseed and fiber crop
14 that includes all parts and varieties of the plant *Cannabis Sativa*
15 L, having no more than three-tenths of one percent
16 tetrahydrocannabinol contained in its dried flowering tops; and
17 that is grown wholly within this state from instate seed stock
18 exclusively for the purpose of producing sterilized stalk, fiber,
19 and seed elements and products thereof.

20 (d) "Tetrahydrocannabinol" or "THC" means the natural or
21 synthetic equivalents of the substances contained in the plant, or
22 in the resinous extractives of, cannabis, or any synthetic
23 substances, compounds, salts, or derivatives of the plant or
24 chemicals and their isomers with similar chemical structure and
25 pharmacological activity.

1 81102. ~~(a)~~ Any person desiring to ~~(1)~~ grow industrial hemp
2 for commercial purposes; ~~or (2)~~ shall comply with the following
3 requirements:

4 (a) (1) A person who grows industrial hemp shall file with the
5 Department of Food and Agriculture documentation indicating
6 that any seeds planted are of a type and variety that have no
7 more than three-tenths of one percent tetrahydrocannabinol, as
8 reported by a testing facility approved by the federal Drug
9 Enforcement Administration, and shall file a signed document
10 stating that a contract to grow industrial hemp has been entered
11 into. This document shall specify the number of acres and the
12 location of the crop, shall be made available for review by law
13 enforcement upon request, and shall not be required to be
14 disclosed under subdivision (k) of Section 6254 of the
15 Government Code pursuant to Section 6276.26 of the
16 Government Code.

17 (2) The department shall adopt rules that provide for the
18 testing of industrial hemp during its growth for
19 tetrahydrocannabinol levels and for the supervision of the crop
20 during its growth and harvest.

21 (b) A person who grows industrial hemp shall be prohibited
22 from removing from its operation any item or element other than
23 mature stalks, fiber, or viable seed for sale, distribution, or
24 introduction into the commerce of this state.

25 (c) A person who grows industrial hemp shall be prohibited
26 from selling or distributing the mature stalks, fiber, or viable
27 seed to anyone other than a primary processor licensed under
28 this division.

29 (d) A person who grows industrial hemp shall notify the
30 Department of Food and Agriculture regarding the sale or
31 distribution of any industrial hemp seed or stalk grown by the
32 person, and shall disclose the name of any licensed primary
33 processor to whom viable hemp seed has been sold or
34 distributed.

35 (e) The Department of Food and Agriculture may contract
36 with county agricultural commissioners for their services.

37 81104. (a) Any person desiring to operate as a primary
38 processor of viable hemp seed into commercial nonviable seed
39 derivatives shall apply to the Department of Food and
40 Agriculture for a license on a form prescribed by the department.

(b) The department shall adopt regulations establishing criteria for the issuance of licenses, which criteria shall include, but need not be limited to, the following:

(1) Permitholders are not authorized to sell or trade viable hemp seed outside *the State* of California.

(2) Licenses shall be subject to renewal after two years.

~~(3) Background and qualifications of the applicant must be submitted, which shall include a complete state and federal summary criminal history check, at the applicant's expense.~~

~~(4)~~

(3) No person with a prior criminal conviction shall be eligible for a license.

~~81104. Every licensee under this division shall be subject to the following conditions:~~

~~(a) (1) Each licensee shall file with the Department of Food and Agriculture documentation indicating that the seeds planted were of a type and variety certified to have no more than three-tenths of one percent tetrahydrocannabinol and a copy of any contract to grow industrial hemp.~~

~~(2) The department shall adopt rules that provide for testing industrial hemp during growth for tetrahydrocannabinol levels and for supervision of the crop during growth and harvest.~~

~~(b) No licensee may remove from its operation any item or element other than mature stalks, fiber, or viable seed for sale, distribution, or introduction into the commerce of this state.~~

~~(c) A licensee may sell or distribute mature stalks, fiber, or viable seed only to a primary processor licensed under this division.~~

~~(d) Each person licensed to grow industrial hemp shall notify the Department of Food and Agriculture of the sale or distribution of any industrial hemp seed or stalk grown by the licensee, and of the names of the licensed persons to whom any viable hemp seed was sold or distributed.~~

~~(e)~~

81106. Each person licensed as a primary processor shall ~~render~~ *comply with the following requirements:*

(a) The licensee shall render each seed into a nonviable seed derivative, including, but not limited to, oil, nut, or powder.

(f) Each person licensed as a primary processor shall test the

1 (b) *The licensee shall test the* tetrahydrocannabinol (THC)
2 levels of any derivative product using a laboratory registered
3 with the federal Drug Enforcement Administration and shall
4 report the results of those tests to the Department of Food and
5 Agriculture, in a form and on a schedule set forth in regulations
6 adopted by the department.

7 (1) In every case, for hemp oil products grown in this state, the
8 trace tetrahydrocannabinol content shall not exceed more than
9 five parts per million (ppm) of tetrahydrocannabinol.

10 (2) In every case, for hemp nut products grown in this state,
11 the trace tetrahydrocannabinol content shall not exceed more
12 than 1.5 parts per million (ppm) of tetrahydrocannabinol.

13 81108. To provide sufficient funds to pay all costs associated
14 with monitoring and testing in the state, the Department of Food
15 and Agriculture shall assess each applicant a fee in an amount
16 determined by the department to cover those costs.

17 81110. The University of California shall be authorized to
18 conduct research relating to the production and processing of
19 industrial hemp, as follows:

20 (a) One of the purposes of the research shall be the
21 development and dissemination of technology important to the
22 production and utilization of commercial crop and livestock
23 enterprises.

24 (b) The research shall provide for the enhancement of the
25 quality of life, sustainability of production, and protection of the
26 environment.

27 (c) As a part of this research, the university may collect feral
28 hemp seed stock and develop appropriate adapted strains of
29 industrial hemp which contain less than three-tenths of one
30 percent tetrahydrocannabinol in the dried flowering tops.

31 (d) The university shall report its findings to the Department
32 of Food and Agriculture.

33 *SEC. 2. Section 6276.26 of the Government Code is amended*
34 *to read:*

35 6276.26. Improper obtaining or distributing of information
36 from Department of Motor Vehicles, Sections 1808.46 and
37 1808.47, Vehicle Code.

38 Improper governmental activities reporting, confidentiality of
39 identity of person providing information, Section 8547.5,
40 Government Code.

1 Improper governmental activities reporting, disclosure of
2 information, Section 8547.6, Government Code.
3 Industrial accident reports, confidentiality of information,
4 Section 129, Labor Code.
5 *Industrial hemp, confidentiality of proprietary information in*
6 *signed documents, Section 81102, Food and Agricultural Code.*
7 Industrial loan companies, confidentiality of financial
8 information, Section 18496, Financial Code.
9 Industrial loan companies, confidentiality of investigation and
10 examination reports, Section 18394, Financial Code.
11 In forma pauperis litigant, rules governing confidentiality of
12 financial information, Section 68511.3, Government Code.
13 Initiative, referendum, recall, and other petitions,
14 confidentiality of names of signers, Section 6253.5, Government
15 Code.
16 Inspector General, Youth and Adult Correctional Agency,
17 confidentiality of records of employee interviews, Section 6127,
18 Penal Code.
19 Insurance claims analysis, confidentiality of information,
20 Section 1875.16, Insurance Code.
21 Insurance Commissioner, confidential information, Sections
22 735.5, 1077.3, and 12919, Insurance Code.
23 Insurance Commissioner, informal conciliation of complaints,
24 confidential communications, Section 1858.02, Insurance Code.
25 Insurance Commissioner, information from examination or
26 investigation, confidentiality of, Sections 1215.7, 1433, and
27 1759.3, Insurance Code.
28 Insurance Commissioner, report to Legislature, confidential
29 information, Section 12961, Insurance Code.
30 Insurance Commissioner, writings filed with nondisclosure,
31 Section 855, Insurance Code.
32 Insurance fraud reporting, information acquired not part of
33 public record, Section 1873.1, Insurance Code.
34 Insurance Holding Company System Regulatory Act,
35 examinations, Section 1215.7, Insurance Code.
36 Insurance licensee, confidential information, Section 1666.5,
37 Insurance Code.
38 Insurer application information, confidentiality of, Section
39 925.3, Insurance Code.

1 Insurer financial analysis ratios and examination synopses,
2 confidentiality of, Section 933, Insurance Code.

3 Insurer, request for examination of, confidentiality of, Section
4 1067.11, Insurance Code.

5 Integrated Waste Management Board information, prohibition
6 against disclosure, Section 45982, Revenue and Taxation Code.

7 Intervention in regulatory and ratemaking proceedings, audit of
8 customer seeking and award, Section 1804, Public Utilities Code.

9 Investigative consumer reporting agency, limitations on
10 furnishing an investigative consumer report, Section 1786.12,
11 Civil Code.

12 ~~SEC. 2.~~

13 *SEC. 3.* No reimbursement is required by this act pursuant to
14 Section 6 of Article XIII B of the California Constitution because
15 the only costs that may be incurred by a local agency or school
16 district will be incurred because this act creates a new crime or
17 infraction, eliminates a crime or infraction, or changes the
18 penalty for a crime or infraction, within the meaning of Section
19 17556 of the Government Code, or changes the definition of a
20 crime within the meaning of Section 6 of Article XIII B of the
21 California Constitution.